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December 9, 2021

Dec of Merrithew  
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25

EXAMINATION INDEX

Page

Examination by Mr. Merrithew

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EXHIBIT INDEX

- none marked -

1 CRAIG DOBSON

2 having been first duly sworn under oath, testified under  
3 oath as follows:

4  
5 EXAMINATION

6 BY MR. MERRITHEW:

7 Q. Is it Lieutenant Dobson?

8 A. It's Commander Dobson.

9 Q. Commander Dobson. Commander, have you ever  
10 had your deposition taken before?

11 A. I've had a couple, yes, sir.

12 Q. Okay. So you understand that this is a  
13 proceeding that is under oath subject to the penalty of  
14 perjury?

15 A. Yes, yes.

16 Q. And the primary difference in terms of how  
17 it's recorded as opposed to state court is we have a  
18 court reporter who is listening to this and trying to  
19 take it down. Do you understand that?

20 A. Yes.

21 Q. The Zoom depositions I've found are difficult  
22 for many reasons, but one of them is that it's harder  
23 not to talk over one another and that's pretty important  
24 for the court reporter. So, if you can agree to do your  
25 best to wait until I finish asking a question, I'll do

1 my best to wait until you've finished answering the  
2 question, and we'll try not to annoy the court reporter.  
3 Is that a good plan?

4 A. I hope to follow that plan, yes.

5 Q. Okay. Commander Dobson, the other thing that  
6 makes this particular deposition a little bit unusual is  
7 I'm not actually here to learn about Commander Dobson's  
8 recollections or understanding of anything. You're here  
9 to speak on behalf of the City of Portland. Do you  
10 understand that?

11 A. Yes.

12 Q. And the City has designated you -- on my cheat  
13 sheet -- to talk about three different topics that we  
14 asked for a witness to talk about. Do you understand  
15 that?

16 A. Correct.

17 Q. Do you believe that you're as prepared as you  
18 can be to speak for the City of Portland on those three  
19 topics?

20 A. Yes.

21 Q. Okay. I'd like for you to begin by telling  
22 us -- actually, strike that.

23 I'm going to start with the topic that I think  
24 is a little bit more discrete, which is topic No. 9,  
25 regarding the policies, directives and trainings that

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1 information with our intelligence unit and providing me  
2 that which I needed.

3 MR. MERRITHEW: Can we take like a 10 or  
4 15-minute break?

5 MR. YAMACHIKA: Yeah.

6 MR. MERRITHEW: Thanks.

7 (Recess: 2:23 to 2:39 p.m.)

8

9 BY MR. MERRITHEW: (Continuing)

10 Q. All right. Commander Dobson, I'd like to move  
11 on to talking about riot control agents with you.

12 A. Okay.

13 Q. How does the bureau define riot control  
14 agents? What's in that category of munitions?

15 A. That would be CS, CN, which we don't use, OC,  
16 under the pyro -- it would be pyro, there's different  
17 types, are typically the three that we look at.

18 Q. Okay. And by "pyro," you mean ammunition that  
19 has a pyrotechnic ignition system?

20 A. It burns.

21 Q. The handheld OC spray canisters that officers  
22 carry, those are not included in that category of  
23 weapons --

24 A. Not usually. We do not consider -- no, that  
25 is correct.

1 MR. YAMACHIKA: Just to make sure we're  
2 not missing something, like OC vapor, is that different?

3 THE WITNESS: So that would be a crowd  
4 control munition typically, but it's limited in its  
5 effects.

6

7 BY MR. MERRITHEW: (Continuing)

8 Q. With respect to riot control agents, does  
9 Incident Command need to give a specific direction  
10 before members on the ground are authorized to use riot  
11 control agents on a crowd?

12 A. Yes. Typically, yes.

13 Q. So, is it then the case that it is in fact the  
14 Incident Commander who is deciding when or whether to  
15 use riot control agents?

16 A. Yes.

17 Q. So, can you tell me what factors the Incident  
18 Commander takes into account when deciding whether or  
19 not to use riot control agents in response to a  
20 gathering of people?

21 A. So, again, we're looking at a variety of  
22 things. In particular for CS, if we're using CS gas or  
23 OC gas, we're looking at a number of factors. We're  
24 looking at location. We're looking at weather. We're  
25 looking at the topography that's there. We're looking,

1 weather gets hot enough and things get dry enough,  
2 because we're using a burning device, we would limit it  
3 based on its chance of setting something on fire.

4 Q. All right. Let's talk more about the aspects  
5 of the crowd that would cause Incident Command to either  
6 authorize or not authorize the use of tear gas, CS gas  
7 or other types of gas. You said something about whether  
8 you have a civil disturbance or an unlawful assembly and  
9 how many people in the crowd are engaged in criminal  
10 activity.

11 Could you tell us, is there any particular  
12 threshold that Incident Command is looking for before  
13 authorizing the use of CS gas against the crowd, like,  
14 you know, 60 percent of the crowd has to be engaged in  
15 criminal activity or 20 percent or anything like that?

16 A. It's really hard to make that kind of  
17 determination. Again, you're looking at situational  
18 awareness of what do you have, understanding your tools.  
19 So, CS gas is effective in moving a crowd. It causes  
20 very little damage in -- So, we're looking at -- When  
21 we're looking at what tools to use, we're looking at  
22 what is going to be safe and effective both for the  
23 crowd, for the public, as well as the police. And so  
24 can I use this tool on a crowd that is largely either in  
25 riot or in unlawful assembly and does it -- is it a tool



1 that gives me the stand-off distance so that it's safer  
2 for me to apply this tool as opposed to having to use  
3 batons with a crowd. All of those factors come in when  
4 we're making that decision with a crowd. You know, are  
5 they throwing projectiles so it's not safe for us to get  
6 into that crowd. It's those type of things.

7 Q. From Incident Command's point of view, any  
8 time the CS gas is used on a crowd, would you  
9 acknowledge that there will be people who will be  
10 affected by the gas who have committed no criminal act?

11 A. So, we recognize that gas, once -- once  
12 deployed, is indiscriminate in that we can't -- we don't  
13 control where it goes. What we do because we understand  
14 the gravity of using CS gas, we try not to use it unless  
15 we feel that it's actually going to be a help. And  
16 then, also, prior to using it, we give enough warnings  
17 so that those that are there that -- our hope is those  
18 that are there that recognize that there's something  
19 going on here, that the police are now going to deploy  
20 it on, will now choose to leave, and then give them  
21 directions in which way to go.

22 Q. Under PPB directives, a person who is in a  
23 crowd who has been directed to leave by a sound truck or  
24 other means, who just stands there and doesn't leave,  
25 that person is engaged in passive resistance; is that

1 right?

2 MR. YAMACHIKA: Object to form.

3 Go ahead.

4 A. Yes.

5 Q. So, whenever CS gas is used on a crowd, people  
6 who are engaged in only passive resistance are affected  
7 by the gas; is that right?

8 MR. YAMACHIKA: Same objection.

9 Go ahead.

10 A. So, persons that would be in there that have  
11 chosen not to leave, yes.

12 Q. So, what I'm trying to understand is, is there  
13 any threshold where, from Incident Command's point of  
14 view, we have to have greater than, say, five, ten,  
15 twenty percent of the crowd engaged in something more  
16 than passive resistance before we're going to use CS gas  
17 on this crowd?

18 MR. YAMACHIKA: Objection. Asked and  
19 answered.

20 Go ahead.

21 A. So, when -- when we look at using CS gas,  
22 we're looking at a situation where we feel that the use  
23 of it is going to help us eliminate whatever life safety  
24 concerns that we have that we're seeing there. And  
25 typically we only use it when we have a life safety

1 behavior of the crowd. If we suddenly see that the  
2 crowd has changed conditions, we would then cease that  
3 order on the ground. As they encounter things or  
4 situations, they could make the indepen -- once we've  
5 given authorization, they could make that independent  
6 decision. As that push is going on, if they find that  
7 they need to use additional amounts of gas to continue  
8 the group from moving, they -- they could do that. But,  
9 again, we're monitoring. We're getting feedback from  
10 the ground of what's going on and what the situation is  
11 so that we can, again, constantly looking at -- at what  
12 point is it time for us to try to de-escalate this and  
13 change tactics to -- to bring us -- again, de-escalate  
14 and bring us back to normalcy.

15 Q. Okay. Do I understand from that answer that  
16 once it's authorized, it continues to be authorized  
17 until Incident Command says, "No more"?

18 A. I -- It's a little dry -- cut and dry there.  
19 We would -- So, for example, if we are asking them to --  
20 our officers to do a push or dispersal, we would  
21 typically give them an area to disperse from and they  
22 would be authorized to use it within that area as they  
23 needed based on the conditions that they saw. Once the  
24 group either got outside of that area or we saw a change  
25 in the conditions, we might change or bring that order

1 back to not allowing it.

2 Q. Okay. So, the Incident Command is, in that  
3 example, deciding that you're going to use the gas to  
4 try and clear these three blocks, if that's what the  
5 authorization is, then the guys on the ground would not  
6 have authority to use gas outside of that area; is that  
7 right?

8 A. Again, you've got exigent circumstances.  
9 You've got that clause in there. So, if there was  
10 something like that that popped up, they would be able  
11 to explain that. But, yes, in general, they would do it  
12 for what they needed to.

13 Part of our training is understanding our  
14 tools and understanding the gravity of each of our  
15 tools. Each of them understands that when we use CS  
16 gas, we have to be very careful about how we use it and  
17 it's not something that we would use -- We give them the  
18 decision, but they understand the consequences of using  
19 it.

20 Q. Okay. So, when Incident Command is making a  
21 decision whether or not to authorize the use of CS gas,  
22 what directives from the bureau are implicated in that  
23 decision?

24 A. 635 and 1010.

25 Q. Okay. What parts of 1010 are implicated in

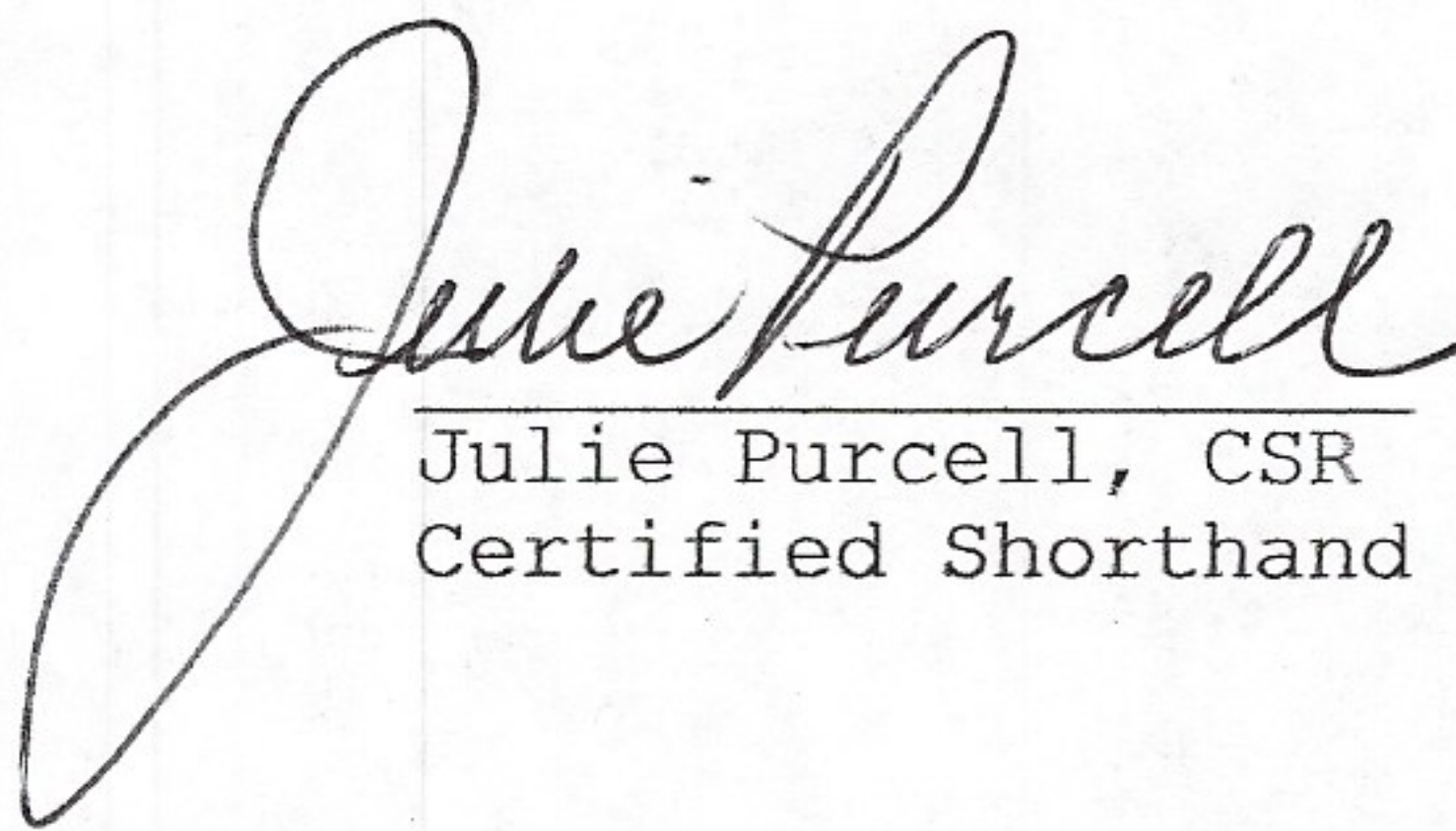


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2  
3 CERTIFICATE

4 I, Julie Purcell, Professional Reporter and Oregon  
5 Notary, hereby certify that said witness personally  
6 appeared before me via Zoom at the time and place set  
7 forth in the caption hereof; that at said time and place  
8 I reported in stenotype all testimony adduced and other  
9 oral proceedings had in the foregoing matter; that  
10 thereafter my notes were transcribed through  
11 computer-aided transcription, under my direction, and  
12 that foregoing pages constitute a full, true and  
13 accurate record of all such testimony adduced and oral  
14 proceedings had, and of the whole thereof.

15 I further certify review of the transcript was  
16 requested.

17 Witness my hand this 13th day of December, 2021.

18  
19   
20 Julie Purcell, CSR  
21 Certified Shorthand Reporter